

9ev. 02/2006

COURTROOM MINUTES OF CRIMINAL PROCEEDINGS
Norfolk Division

SENTENCING MINUTES

Set: 2:00 p.m.
Started: 2:00 p.m.
Ended: 3:00 p.m.

Date: March 11, 2021
Judge: Rebecca Beach Smith
Court Reporter: Jody Stewart, OCR
U.S. Attorney: Brian Samuels, AUSA
Defense Counsel: L. Woodward, c/a
Courtroom Deputy: Cristi Dodge
Probation Officer: Joshua Coleman

Case No. 4:20cr27

Defendant: Joseph M. Cherry, II (☒) In custody (☐) On bond

☒ Matter came on for disposition.

☒ USA's Motion for Acceptance of Responsibility (document #27).

☒ Granted. ☐ Denied.

☒ Court adjudged defendant guilty of Counts 1,5 of the Indictment, after entering a plea of guilty before a Magistrate Judge.

☒ Presentence Report reviewed. ☐ Objections heard and rulings made.

☐ Evidence presented. (Witnesses and exhibits listed on last page)

☒ Arguments of counsel heard. ☒ Statement of defendant heard.

IMPRISONMENT:

SENTENCE: Counts 1,5 The defendant shall be committed to the custody of the BOP to be imprisoned for a total term of 51 months. This term consists of a term of 51 months on Count 1, and a term of 51 months on Count 2, all to be served **concurrently**.

The court makes the following recommendations to the United States Bureau of Prisons:

1) The defendant shall undergo a full mental health examination and shall receive all appropriate mental health treatment and counseling, in particular for his fraud mentality.

2) The defendant shall further his education by taking college courses, but not in the area of financial/business.

☒ The defendant is remanded to the custody of the U.S. Marshal.

SUPERVISED RELEASE:

 x Upon release from imprisonment, the defendant shall be on supervised release for a term of 3 years. This term consists of a term of 3 years on Count 1, and a term of 3 years on Count 5 all to be served concurrently.

Special Conditions of Supervised Release:

 x The defendant will be subjected to random urinalysis testing while on supervised release. If, at any time, he tests positive for the use of any controlled substance or excessive use of alcohol, he will be required to participate in a substance abuse treatment and counseling program, to include in-patient treatment if necessary, at the direction and discretion of the probation officer. The defendant shall bear partial costs of this program.

 x The defendant shall continue to participate in a mental health treatment and counseling program at the direction and discretion of the probation officer. Defendant shall bear partial costs of this program, **in particular counselling/treatment for his fraud mentality.**

 x The defendant shall waive all rights of confidentiality regarding mental health/substance abuse treatment in order to allow the release of information to the United States Probation Office and authorize communication between the probation office and the treatment provider.

 x The defendant shall pay support for his minor child/children in the amount ordered by any social service agency or court of competent jurisdiction, and shall register with the Department of Child Support Enforcement in any state in which he resides. In the absence of any such order, payments are to be made on a schedule to be determined by the court at the inception of supervision, based on defendant's financial circumstances.

 x As directed by the probation officer, the defendant shall apply monies received from income tax refunds, lottery winnings, inheritances, judgments, and any anticipated or unexpected financial gains to the outstanding court-ordered financial obligation.

 x The defendant shall not incur new credit charges or open additional lines of credit without the approval of the probation officer.

 x The defendant shall provide the probation officer access to any requested financial information.

 x During the period of supervised release, the defendant shall provide a copy of his/her state and federal tax returns each year to the probation officer.

 The defendant shall provide written notification of the nature of his/her conviction to any employer he may have during his/her period of supervised release. A copy of this written notification shall be submitted to the probation officer, and the probation officer shall verify that the defendant's employer received this notification.

 x The defendant shall participate in the Treasury Offset Program (TOP) as directed by the probation officer.

 x The court does not deny federal benefits because the denial is not applicable.

FINANCIAL PENALTIES

 x The court waives the cost of prosecution, incarceration, and supervised release, except to the extent the defendant will have to bear costs as outlined in the Special Conditions of Supervision.

SPECIAL ASSESSMENT:

 x As to count 1 , the defendant shall pay a special assessment in the amount of \$100.00.

 x As to count 5 the defendant shall pay a special assessment in the amount of \$100.00.

The total special assessment due is \$200.00 and shall be due in full immediately.

FINE:

 x No fines have been imposed in this case.

 The defendant shall pay a fine in the amount of \$_____.

RESTITUTION:

 x The defendant shall make restitution in the amount of \$57,303.29 as to count one.

 x Restitution Judgment Order, entered and filed in open court.

SCHEDULE OF PAYMENTS:

 x Interest on the restitution has been waived.

 Interest accrues as provided in 18 U.S.C. § 3612(f).

 x The special assessment/fine/restitution is due and payable immediately. The defendant shall pay to the Clerk at least \$350* per month beginning sixty (60) days from the inception of supervised release toward any restitution remaining unpaid. The court reserves the option to alter this amount, depending upon defendant's financial circumstances at the time of supervised release and depending upon how much restitution has been paid. *** or 25% of net income, whichever is greater**

 Restitution shall be made jointly and severally with

_____ Nothing in the Court's order shall prohibit the collection of any judgment or fine by the United States.

 x The defendant notified of right of appeal.

 x Court noted that defendant waived right of appeal in plea agreement.

 x On motion of the government, remaining counts dismissed.

_____ The defendant is continued on present bond and cautioned re bail jumping.

 x Consent Order of Forfeiture, executed and filed in open court.

Additional Counts/Comments: